IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 7420 of 1994

Between:

1) Jatya Suryanarayana S/o Gopayya, Addateegela, East Godavari District.

2) Veenam Saraswatha Rao S/o China Venkataratnam,

Occ: Cultivation, Addateegela, East Godavari District.

..... PETITIONERS

AND

1) The Collector, Kakinada.

2) The Dy. Collector, Tribal Welfare, Rampachodavaram, East Godavari

District.

3) Kambam Veeranna S/o late Pedaveeranna

4) Kambam Appanna S/o late Pedaveeranna

5) Kambam Swamy Dasu S/o late Pedaveeranna

6) Kambam John S/o late Pedaveeranna

(The case against Respondents 3 to 5 is dismissed for default as per

Court Order dated 20.6.2001).

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to CMA 41/91 on the file of Collector, Kakinada confirming the order of the Dy. Collector, Tribal Welfae, Rampachodavaram made in LTRP.56/90 and issue Writ of Certiorari or any other appropriate Writ or Order, direction, quashing the order of the Collector, Kakinada, made in CMA 41/91 confirming the order of the Dy. Collector, Tribal Welfare, Rampachodavarm made in LTRP 56/90.

Counsel for the Petitioner: MR.M.LAKSHMANA SARMA

Counsel for the Respondent Nos.1 &2: GP FOR SOCIAL WELFARE

Counsel for the Respondent No.6 : Mr.D.Srinivas

The Court made the following:

:: O R D E R ::

This writ petition has been directed against the orders passed by the 1st respondent in CMA No.41 of 1991 dated 9-2-1994 confirming the orders passed by the Special Deputy Collector, Tribal Welfare, Rampachodavaram in L.TR.P.No.56/1990.

The Special Deputy Tahsildar, Tribal Welfare, Addategala filed a complaint against the petitioners under section 3 of Andhra Pradesh (SA) Land Transfer Regulation I of 1959 as amended by the Land Transfer Regulation 1 of 1970 on behalf of the respondents 3 to 6 herein for restoration of petition schedule lands to the respondents 3 to 6 from the petitioners herein. The Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District on consideration of the evidence on record held that the transaction took place between tribal and non-tribal, and therefore, ordered for eviction of the petitioners. On appeal, the appellate court-1st respondent herein confirmed the order passed by the lower court. Both the courts gone into the aspect as to whether the respondents 3 to 6 herein belong to tribal community, and considering the material that was available on record, *inter alia* held that the respondents 3 to 6 are tribals as per the circular of the Government of India in letter No.35/35/72 Revenue, (SC, TW) of the Ministry of Home Affairs, point No. 1(v) wherein it is clarified that if the person claims to be Scheduled Tribe,

he may profess any religion. Thus, the courts below negatived the contention of the petitioners that the respondents are non-tribals, particularly in the absence of the cogent evidence adduced by the petitioners. That apart, the writ petition was dismissed against respondents 3 to 6 for not taking any steps to bring their legal representatives on record by an order dated 20.6.2001.

Considering the above circumstances, I do not see any merit in this writ petition and the same is accordingly dismissed.

Sd/-(M.A.NAYEEM PASHA)

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

15th July, 2004

Kk/Rar

To

1) The Collector, Kakinada, East Godavari District.

2) The Dy. Collector, Tribal Welfare, Rampachodavaram, East Godavari District.

3) 2CCs to Govt. Pleader for Social Welfare,High Court of A.P.,Hyd.(OUT)

4) 2CD copies